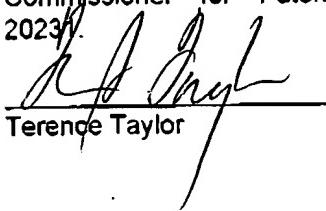


#24
4-9-98

PATENT

I certify that on 3/27/98, which is the date I am signing this certificate, this correspondence and all attachments mentioned are being deposited in the United States Postal Service as first class in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.


Terence Taylor

Applicant: Fleischman et al.

Serial No.: 08/529,354

Filing Date: September 18, 1995

Title: Systems and Methods for Electronically Altering the Energy Emitting Characteristics of an Electrode Array to Create Different Lesion Patterns in Body Tissue

Group Art Unit: 3311

Examiner: D. Shay

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Assistant Commissioner for Patents
Washington, D.C. 20231

BOX AF
Expedited Procedure

DECLARATION OF DAVID K. SWANSON

UNDER 37 C.F.R. § 1.132

I, David K. Swanson, declare that:

1. I earned a Ph.D. in Electrical and Computer Engineering from the University of Wisconsin, located in Madison, Wisconsin, in 1976. Prior to that I earned a Masters of Science in Physiology (1973) and Masters of Science in Electrical Engineering (1972). Both of these degrees were also earned at the University of Wisconsin in Madison.

2. I have been employed in the biomedical science field since 1975 and I have approximately 20 years of experience in the area of cardiac treatment. Most recently, I have been employed by E.P. Technologies, Inc. as the Director of Research and Development for Ventricular Tachycardia and Atrial Fibrillation Therapies since 1993.

3. My present employer, E.P. Technologies, Inc., is the assignee of U.S. application Serial No. 08/529,354 ("the present application"). I am one of the inventors named in the present application. I am also a named inventor in 43 patents relating to

electrophysiology. I am, and was at the time the invention disclosed in the present application was made, actively engaged in the practice of designing and manufacturing electrophysiological devices.

4. I have reviewed the present application, including the claims as amended in response to the Office Action dated December 10, 1997. At the time the invention disclosed in the present application was made, and at all times referenced herein, I was aware of the level of ordinary skill in the art to which the invention pertains.

5. I have studied United States Patent No. 5,156,151 to Imran ("the Imran patent").

6. Based on my studies of the Imran patent, it is my opinion that the Imran patent does not provide teachings sufficient to have enabled one of skill in the art to practice power switching from one electrode to another with the level of power necessary for tissue ablation. The principal reasons for my opinion are as follows.

7. Tissue ablation requires relatively high current, high voltage power.

8. Multiplexer chips capable of handling ablation level power are relatively large.

9. The Imran patent states that switching is accomplished with a multiplexer chip 96 (or chips 96a-c) located within the catheter probe 22.

10. At the time the present invention was made, multiplexer chips both small enough to fit within a catheter probe and capable of switching ablation level power did not exist. In other words, the interior of a catheter probe did not provide sufficient volume for such a multiplexer chip.

11. Multiplexer chips both small enough to fit within a catheter probe and capable of switching ablation level power do not exist today.

12. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001

Serial No. 08/529,354

Docket No. 1928D CON (15916-65)

of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

3-26-98
Date

David K. Swanson
David K. Swanson